GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare Department – Appeal Petition filed by Sri S.P. Balaji Kumar, S/o S.Prem Kumar, Occ: Junior Civil Judge, Srikakulam, R/o Tirupati, against the proceedings, dated 12.12.2018 of the District Collector, Chittoor, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.MS.No. 75 Dated: 12-03-2019

Read the following:

1. Proceedings of the District Collector, Chittoor, Roc.C3/cer/4059/2017, dated 12.12.2018.
2. Appeal Petition, dated 04.01.2019 filed by Sri S.P.Balaji Kumar, Junior Civil Judge, Kothuru, Srikakulam District, before the Government on 10.01.2019.
3. Govt. Memo No.SW0CERT(CSCC)/1/CV.1/2019, dated: 22.01.2019.
4. Appeal Petition, dated .01.2019 filed by Sri S.P.Balaji Kumar, Junior Civil Judge, Kothuru, Srikakulam District, before the M(SWE&C), No.1949/SWE&C/2019, dated: 21.01.2019.
5. Govt. Memo No. SW0CERT(CSCC)/1/CV.1/2019, dated: 24.01.2019.
6. Govt. Memo No. SW0CERT(CSCC)/1/CV.1/2019, dated: 05.02.2019.
7. From Sri S.Prem Kumar, F/o Balaji Kumar, S.P., Advocate, representation dated: 04.02.2019.
8. From Sri S.Prem Kumar, Advocate, representation dated: 07.02.2019.
9. From the District Collector, Chittoor, Lr.Roc.C3/cer/88/40599/2017, dated 05.02.2019.
10. Petition for Special Leave to Appeal (Civil) No. 368/2019 filed by Sri Balaji Kumar S.P.
11. Govt. Memo No. SW0CERT(CSCC)/1/CV.1/2019, dated:19.02.2019.
12. Vakalath filed by Sri S.Srinivasa Rao, Advocate, dated: 02.03.2019.
13. From Sri S.P.Balaji Kumar, representation dated: 27.02.2019.

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ORDER:

In the reference 1st read above, the District Collector, Chittoor has issued orders cancelling SC-Mala/ Adi-Dravida caste certificates obtained from the then Tahsildars, Tirupati Urban, Chittoor District by Sri S.P. Balaji Kumar, S/o S.Prem Kumar.

2. In the reference 2nd read above, Sri S.P. Balaji Kumar, S/o S.Prem Kumar, has filed the appeal petition before the Government, against the proceedings of the District Collector, Chitoor. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 3rd read above.

3. In the reference 4th read above, Sri S.P. Balaji Kumar, S/o S.Prem Kumar, has filed the petition for grant of stay before the Appellate Authority, against the proceedings of the District Collector, Chitoor. After examining the said Appeal Petition, Government have granted stay on the proceedings of the District Collector, Chittoor and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 5th read above.

4. In the reference 9th read above, the District Collector, Chittoor has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri S.P. Balaji Kumar, S/o S.Prem Kumar.

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5. In the references 7th, 8th & 13th read above, Sri S.P. Balaji Kumar, S/o S.Prem Kumar, has requested to postpone the enquiry & hearing up to June, 2019, because they have not received counter copies with enclosures etc., from the District Collector, Chittoor till date.

6. In the reference 10th read above, Sri S.P. Balaji Kumar, S/o S.Prem Kumar has filed Petition for Special Leave to Appeal (Civil) No. 368/2019 before the Hon'ble Supreme Court, against the Madhuri Undrajavarapu and others.

7. In the reference 12th read above, Sri S.Srinivasa Rao, Advocate have filed vakalath on behalf of the appellant on 02.03.2019.

8. The said Appeal Petition has been posted for hearing on 02.02.2019, 09.02.2019, 16.02.2019 & finally on 02.03.2019 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 3rd , 6th & 11th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Appellate Authority has conducted final hearing in the said appeal petition on 02.03.2019 & Appellant/ the Counsel for the appellant were attended the said hearing schedule & argued the case .

9. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Chittoor and proceedings of the District Collector, Chitoor, dated: 12.12.2018, the Appellate Authority has observed that :

I. The appellant in his grounds has stated that his mother belongs to Adi Dravida community & father belongs to Godda which is one of the species of Adi-Dravida Community and the same was notified as Scheduled Caste in Tamil Nadu and his father Mr. S. Prem Kumar migrated from Tamil Nadu to Tirupati for his livelihood way back in 1975 and the marriage of the appellant's mother & father was performed in March, 1979 & he was born on 30.06.1980 at Tirupati. He has further stated that due to poverty he was taken over by his maternal grandparents and studied up to XII standard in the State of Tamil Nadu, but his parents permanently residing at Tirupati since 1979. Further, he has filed affidavits of one Smt. A. Amulamma the grand- daughter of late K. Venkatamma who was the owner of house wherein his parents were residing at Tirupati. He is having marital relations with Scheduled Caste community only.

II. Further, he has stated that he was selected for the purpose of providing the financial aid to SCs for undergoing training in Administration of Justice for the year 2005-06, under SC quota under the supervision of Mr.P. Srikanth, Asst. Public Prosecutor, Tirupati & provided monthly stipend of Rs. 3000/- vide G.O.Rt.No.1030, dated: 23.05.2008. The District Collector ought to have seen that the no witness were examined to prove the contents of the documents submitted by the concerned officials i.e. Sub-Collector, Tirupathi, Health Officer, Tirupathi, Municipal Corporation and conseqnuetially the petitioner is deprived of his right to cross examine them to elucidate the truth, hence, the so called report of DLSC, dt: 26.05.2018 is in utter violation of principles of natural Justice, contrary to the Evidences Act and not valid in the eye of law.

III. The District Level Scrutiny Committee, in its findings has observed that the appellant is not native of Andhra Pradesh, his father and mother belongs to state of Tamil Nadu, he has studied upto XII Standard in Tamil Nadu and they failed to submit valid documents viz. ration card, voter Id etc. proves the parents of S.P.Balaji Kumar are residing in Tirupati from the date of S.P Balaji Kumar Birth. The appellant in his Lawcet Application Vide No.553361, dated: 12.05.1998 himself mentioned the Place of Birth as "Madras". This reveals that the appellant & his family are not

[Contd..on P.3]

native of Andhra Pradesh. In Tahsildar Report it is submitted that the parents of S.P.Balaji Kumar Migrated from Thambram of Chennai, Tamil Nadu State at about 40 years back and settled in Tirupati. Sri S.P.Balaji Kumar S/o Prem Kumar was born in Tirupati on 30.06.1980 as per the Birth Certificate issued by the Commissioner, Municipal Corporation, Tirupati Vide Certificate Id.50012-B-274280, Dt. 15-11-2017. Further the birth certificate mentioned in the Tahsildar Report was cancelled vide proceedings Rc.No.427/DSO/2018, dated. 10.04.2018 of the Registrar of Birth & Deaths & Health Officer, Municipal Corporation, Tirupati as the Birth entry Sl.No.1429 was proved tampered entry in the Birth and Death Register of Municipal Corporation, Tirupati. Hence the Commissioner, Municipal Corporation, Tirupati was requested to file FIR in this matter and take action on the persons who are tampered the Birth entry No.1429, Dated: 04.07.1980, in the birth register of Municipal Corporation, Tirupathi vide Rc.No.C3/cer/88/40599/2017, Dated:23/09/2018. Hence it is proved that the date of birth certificate issued by the Commissioner, Municipal Corporation, Tirupati is not valid document to conclude that the individual born at Tirupati. The appellant and his father S.Prem Kumar obtained Caste Certificate in different places of Tamil Nadu and in Tirupati of Andhra Pradesh with difference Sub Castes of SC Community viz., Hindu Godda, Hindu Adi-Dravida, Mala (SC-C). They obtained caste certificates misguiding the officers from the different Tahsildars at different times & with different Sub-caste. As per the Guidelines given by the Government of India, Ministry of Home in No.35/1172-R.U(SCT.V), dt.02.05.1975, where a person migrated from one state to another state he can claim to belongs to Scheduled Caste or Scheduled Tribes in relation to the state which he from originally, thus cannot claim reservation benefits in Andhra Pradesh. The individual has produced the residence certificate C.No.1225/2013, dt. -03-2013 in format Annexure-IIB, issued by the Tahsildar, Tirupati Urban for the years 1988 to 1995 is proof that he is the resident of Tirupati. But the residence certificate are to be produced such candidates who have not studied in any educational institutions during the whole or part of the relevant 4/7 year period but claim to be local candidates by virtue of residence for which there is reservation for local candidates. But, the individual has studied in the Educational Institutions at Vellore District, Tamilnadu State. It is clear that he has obtained residence certificate from the Tahsildar, Urban fraudulently.

IV. The DLSC has also observed that as per Transfer Certificate is issued by the Govt. Boys Higher Secondary School, Arakkonam, Vellore District, Tamil Nadu for 12th Standard the caste of Sri S.P.Balaji Kumar in the Transfer Certificate is mentioned as "Indian Hindu Godda" During the year 1998 in the Application for entrance test of Lawcet -1998 it is mentioned as SC. As per the caste certificate obtained by the Tahsildar, Arakkonam, the caste is mentioned as Hindu Adi Dravida. But after completion of the Law Degree based on the caste certificate issued by Tamil Nadu Revenue Authority he has obtained Transfer Certificate from Sri Venkateswara College of Law, Tirupati, wherein he mentioned his caste as Adi Dravida in the Transfer Certificate. This is also confirmed by the Principal, Sri Venkateswa College of Law, Tirupati vide letter dated.22.06.2018. All these facts go to established that the Written explanation, documentary evidences produced by the appellant were examined by the DLSC & only then it was concluded by the DLSC, that the appellant has obtained the false caste certificates. Based on the findings of the DLSC, the District Collector, Chittoor has in his Proceedings dated 12.12.2018 has cancelled the appellant’s caste certificates duly stating that under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

[Contd..on P.4]

V. In this regard, It is pertinent that Circular Memo No.10956/CV.1/97-2, dt.16.02.1998, instructions were inter-alia issued regarding caste status of persons migrated from other States to AP, states *"in case of migration where a person migrated from the portion of the State of AP in respect which his Community is Scheduled to another part of the AP in respect of which his community is not Scheduled, he will continue to be deemed to be a member of the SC or ST, as the case may be, in the State of AP. But where a person migrates from another States to the State of AP, he can claim that he belong to a SC or a ST only a relation to the State to which he originally belonged and not in respect of the State of AP to which he has migrated, if that Caste/ Tribes is not included in the Constitution (SC & ST) Order 1950 as amended in 1976 for the State of AP."*

VI. The Appellate Authority, at the time of hearing of the case, has observed that during the course of hearing of the case, the advocate for appellant filed vakalath & has also filed a representation of the appellant along with copies of the documents and on perusal of the grounds in appeal petition and the documents of the appellant it is observed that the appellant claims that he belongs to SC community and his parents migrated from Tamilnadu to Tirupathi & settled there, & he is the local candidate of Andhra Pradesh as he born on 30-06-1980 at Tirupathi, and as such he able to proved his caste claim. On verification of the documents and the grounds of appeal, as well as the other documents and material available on the record, it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant. The appellant has failed to produce any credible evidence that he belongs to the SC Community. It is also observed that as per the record, that the father of the appellant has obtained caste certificate certifying that he belongs to the "Hindu-Godda" community in Tamilnadu State and whereas the said caste is not included in the list of castes notified as Scheduled Castes in the State of Andhra Pradesh.

VII. Further it is observed that in the findings of the DLSC it is clearly observed that the Birth Certificate obtained by the appellant at Tirupathi from the Commissioner, Municipal Corporation, Tirupathi vide Certificate Id.50012-B-274280, Dt.15-11-2017 has been cancelled by the Registrar of Birth and Death & Health Officer, Municipal Corporation, Tirupati vide proceedings Rc.No.427/DSO/2018, dated. 10.04.2018 as the Date of Birth Certificate is fraudulently obtained by the appellant. It is also observed by the DLSC that the Residence Certificate of the appellant has been obtained from the Tahsildar, Tirupati, Urban fraudulently. Also, as per the orders of the Government of India, for determining the local status of a person, the person should have studied 4/7 years upto 10^{th} class in the local area. In the instant case, the appellant has completed his studies upto XII standard at Vellore District, Tamilnadu, so by virtue of his local status also he can't be considered as the native of Tirupati.

VIII. Further it is also observed that the caste certificates were issued to the individual in a routine manner and the same were cancelled after conducting detailed and thorough enquiry into the caste status of the individual. That as per the Act.16/1993, the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case, the appellant except relaying upon the same evidence filed before the lower authority has failed to produce any additional material for re-appreciation of the case on hand. As seen from the record, the lower authority passed the order after reasonable appreciating of the evidence available on record & as per law and which deserves no interference. Hence it is evident that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Chittoor District & taking into consideration of the above & material available on the record it can be concluded that the lower authority has passed the order as per law which does not deserve any interference.

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10. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No16 of 1993), hereby decide that the appeal petition filed by Sri S.P. Balaji Kumar, S/o S.Prem Kumar, does not merit any consideration. Hence, the Proceedings of the District Collector, Chittoor issued vide Roc.C3/cer/4059/2017, dated 12.12.2018, is hereby upheld and the Certificate issued by the then Tahsildars, Tirupati Urban, Chittoor District is deemed to be cancelled.

11. The District Collector, Chittoor is directed to take necessary consequential action in the matter and cause enquiry to determine the persons responsible for the issuance of false caste certificates by the office of the Tahsildar, Tirupati Urban mandal in favour of Sri S.P. Blaji Kumar, S/o S. Prem Kumar and also tampering of the Births and Deaths Register of the Tirupati Municipal Corporation and initiate disciplinary action as per the rules.

12. The records (Roc.C3/cer/884/40599/2017, Page Nos.01 to 2086 - containing in (VII) volumes) received from the District Collector, Chittoor through in the reference 9th read above, are returned herewith in original to the District Collector, Chittoor and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Chittoor.
(with original records) (BY RPAD)

The Tahsildar (Urban), Tirupati.

Sri S.P. Balaji Kumar,
S/o S.Prem Kumar
D.No.13-3-344/12B,
3rd Floor (Last House),
Jabbar Layout, Near Head Office,
Tirupati- 517 501.

M/s. A. Chandraiah Naidu,
Sri B. Rama Shankara Rao, advocate (through the appellant)

Sri S. Srinivasa Rao, Advocate (through the appellant)

Copy to :
The Registrar of Recruitment Cell, High Court, AP, Amaravati.
The District Judge, Srikakulam District.

The PS to M(SWE& C).
The PS to Principal Secretary(SW).

// FORWARDED:: BY ORDER //

SECTION OFFICER